



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

MAY 30 2017

REPLY TO THE ATTENTION OF:

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Dear (b)(6)(b)(6) :

Thank you for your recent letter expressing concerns about the proposed Aquila Resources Inc. Back Forty Project in Menominee County, Michigan. EPA shares the concerns that you have raised regarding the potential risks involved in mining, mineral processing and construction of a waste management facility in close proximity to a major waterway. This letter highlights EPA's role and authority in the review of the permitting process for the project.

As currently proposed, the Back Forty Project requires a number of permits, including permits required by federal statute. The State of Michigan, rather than the U.S. Environmental Protection Agency, has the authority and responsibility to review permit applications and issue these permits. In its oversight role, EPA reviews the State's permits to ensure their consistency with federal statutes.

EPA has engaged with the Michigan Department of Environmental Quality (MDEQ) on each of the following permits required by federal law:

Clean Air Act Permit: During the public comment period, EPA provided MDEQ a comment letter dated October 26, 2016, stating concerns with some of the draft air construction permit conditions. As part of its permitting process, MDEQ provided a response to comments document addressing EPA's comments and all comments received during the public comment period at time of final air construction permit issuance. MDEQ revised certain permit conditions to address EPA's concerns and issued the permit on December 28, 2016.

Clean Water Act Section 402 Permit: EPA provided comments on the draft NPDES permit during the public comment period. In accordance with EPA's Memorandum of Agreement with MDEQ for the NPDES permit program, we received a revised version of the permit and MDEQ's responses to comments from MDEQ on February 1, 2017. EPA provided additional comments to MDEQ on the revised permit. EPA's comments were focused primarily on toxicity testing and ambient monitoring requirements. EPA's comments were accepted by MDEQ and incorporated into the permit and fact sheet before it was issued on April 5, 2017.

Clean Water Act Section 404 Permit: In August 2016, EPA objected to MDEQ issuing a Wetlands and Inland Lakes and Streams Permit under its assumed CWA Section 404 program. Aquila Resources Inc. subsequently withdrew its MDEQ permit application. In January 2017, Aquila Resources Inc. re-applied to MDEQ. After finalizing its completeness review, MDEQ will issue a public notice, at which time, the public, tribes, and EPA will have an opportunity to provide comments. EPA will provide a thorough review of the revised permit application. We encourage you to provide comments during this public process as well. You can receive automatic updates from MDEQ regarding wetlands permitting by signing up on the MDEQ's website: [http://www.michigan.gov/deq/0,4561,7-135-3308\\_3325---,00.html](http://www.michigan.gov/deq/0,4561,7-135-3308_3325---,00.html) and request updates on "Resources Programs."

Michigan also maintains state authority to issue permits that authorize companies to conduct nonferrous metallic mining under Part 632 of its Natural Resources and Environmental Protection Act. MDEQ issued a Part 632 permit to Aquila for the Back Forty project on December 28, 2016. The permit can be found on MDEQ's website: [http://www.michigan.gov/documents/deq/deq-oogm-mining-AquilaBackFortyPermit12282016\\_546947\\_7.pdf](http://www.michigan.gov/documents/deq/deq-oogm-mining-AquilaBackFortyPermit12282016_546947_7.pdf). EPA does not have authority to oversee the State's Part 632 permits.

Thank you for your interest in this matter. If you have further questions, please contact Krista McKim, at 312-353-8270 or [mckim.krista@epa.gov](mailto:mckim.krista@epa.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read "C. Korleski".

Christopher Korleski  
Director, Water Division